

JUN. 15. 2004 7:49PM

NO. 643 P. 1

RECEIVED
CENTRAL FAX CENTER

JUN 15 2004

Allen, Dyer, Doppelt,
Milbrath & Gilchrist, P.A.

INTELLECTUAL PROPERTY ATTORNEYS -----

OFFICIAL

255 South Orange Avenue • Suite 1401 • Orlando, FL 32801
Mail to: P. O. Box 3791 • Orlando, FL 32802-3791
tel: 407-841-2330 • fax: 407-841-2343
pditmyer@addmg.com

FACSIMILE COVER SHEET

TO: Examiner B. HOFFAN - United States Patent and Trademark Office; Art Unit: 2136

CLIENT NAME/NUMBER: 54319

TELEPHONE: 703-305-4662

FAX NO: 703-872-9306

FROM: Paul J. Ditmyer, Esq.

DATE: June 15, 2004

NUMBER OF PAGES (INCLUDING COVER SHEET): *43*

COMMENTS/INSTRUCTIONS:

Please see attached Appeal Brief (in triplicate) in response to the Examiner's Final Office Action of February 14, 2004 for U.S. Patent Application Serial No. 09/555,816.

NOTE: The information in this facsimile transmission is intended only for the personal and confidential use of the designated recipient(s) named above. This message may be an attorney-client communication and as such is privileged. If the reader of this message is not the intended recipient named above, you are notified that you have received this document in error, and any review, dissemination, distribution or copying of this message is strictly prohibited. If you have received this document in error, please notify this office immediately via telephone, and return the original message to the above address by mail. Thank you. IF YOU DO NOT RECEIVE ALL OF THE PAGES OR ENCOUNTER DIFFICULTIES IN TRANSMISSION, PLEASE CONTACT THE RECEPTIONIST IMMEDIATELY AT (407) 841-2330

JUN. 15. 2004 7:49PM

NO. 643 P. 2

#14
1053

RECEIVED
CENTRAL FAX CENTER

JUN 15 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF APPEALS

In re Patent Application of:)
NORDSTROM ET AL.)
Serial No. 09/555,816) Examiner: B. HOFFMAN
Confirmation No: 9460) Art Unit: 2136
Filing Date: OCTOBER 10, 2000)
For: DATA SCRAMBLERS)

OFFICIAL

APPELLANT'S APPEAL BRIEF

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith is Appellant's Appeal Brief (in triplicate). Authorization is given to charge Deposit Account No. 01-0484 the requisite \$330.00 fee for filing a brief. If any additional extension and/or fee is required, authorization is given to charge Deposit Account No. 01-0484.

(1) REAL PARTY IN INTEREST

The real party in interest for the present application is the assignee, STMicroelectronics S.r.l.

(2) RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences for the present application.

(3) STATUS OF CLAIMS

All of Claims pending in the present application and all are rejected. Accordingly, all of Claims 24-46 are the subject of this appeal.

In re Patent Application of:
NORDSTROM ET AL.
Serial No: 09/555,816
Filing Date: October 10, 2000

(4) STATUS OF AMENDMENTS

No Amendments After Final were filed, accordingly, the claims in the Appendix incorporate all prior amendments.

(5) CONCISE SUMMARY OF THE INVENTION

As described on page 5, line 9 through page 7, line 1 of the specification with reference to FIG. 1 (reproduced below), the disclosed invention is directed to multi-carrier transmission systems, including copper based transmission systems such as ADSL, VDSL and HDSL which use DMT and/or radio based transmission systems using OFDM. More specifically, the invention is directed to data scramblers, descramblers, systems and methods making use of the synchronization frames, normally used for measuring channel characteristics, as a source of pseudo-random data that is combined with user data.

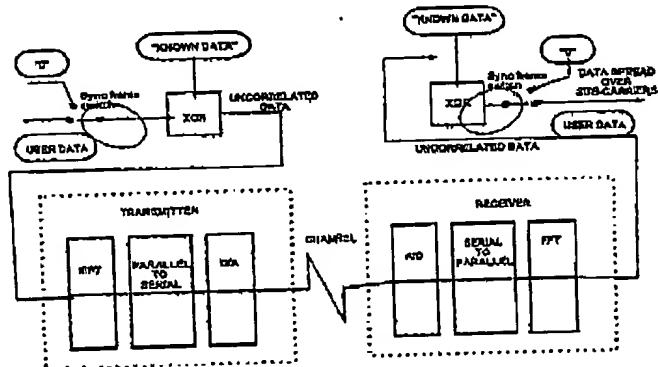


FIGURE 1

Most telecommunications transmission systems are designed to give optimum performance when uncorrelated data is transmitted over the system. Unfortunately, user data is not usually uncorrelated and may, for example, include relatively

In re Patent Application of:
NORDSTROM ET AL.
Serial No. 09/555,816
Filing Date: October 10, 2000

long strings of binary "0"s, or "1"s. If such data is transmitted over a transmission system intended for uncorrelated data, it can result in saturation, i.e. too large a dynamic range, synchronization drift, etc. This problem has long been recognized by telecommunications engineers and the conventional approach is to scramble the incoming user data so that it behaves as though it was uncorrelated data. Known data scramblers use a process to combine user data with a random data string, thereby producing an uncorrelated data stream for transmission.

The present invention simplifies known data scramblers by making use of the synchronization frames, normally used for measuring channel characteristics, as a source of pseudo-random data which can be combined with incoming user data. The present invention includes multi-carrier transmission systems which use, for example, DMT, or OFDM. Many of these transmission systems send known data, usually referred to as synchronization frames, to measure channel characteristics such as signal to noise ratio. The known data contained in a synchronization frame is selected to have a suitable statistical distribution, e.g. pseudo-random. In the data scrambler of the present invention, user data bits are combined with the known synchronization frame data, typically the two most significant bits, using an exclusive-OR function. This results in a statistically and computationally efficient scrambling of the user data.

The present invention results in a much improved statistical distribution of modulated sub-carriers, in a multi-carrier transmission system, compared to the case where no scrambling is used for correlated, or null data situations.

In re Patent Application of:
NORDSTROM ET AL.
Serial No: 09/555,816
Filing Date: October 10, 2000

(6) ISSUES

The issue presented on appeal is whether Claims 24-46 are patentable under 35 U.S.C. §103 over Mannerling et al. (U.S. Patent No. 6,137,839) in view of Kloker (U.S. Patent No. 4,539,684) together or in combination with Salava (U.S. 3,586,776) or Humphery et al. (U.S. Patent No. 5,959,967).

(7) GROUPING OF CLAIMS

For the purposes of addressing the rejections under 35 U.S.C. §103, and for the reasons discussed in the Argument section below, the grouping of the claims is: Claims 24, 25, 28-30, 32-38, 41, 42, 45 and 46 stand together as a group; Claims 26, 30, 39 and 43 stand together as a group and separately from other groups; and Claims 27, 31, 40 and 44 stand together as a group and separately from other groups.

(8) ARGUMENT

Claims 1-23 were rejected in view of Mannerling et al. (U.S. Patent No. 6,137,839) in view of Kloker (U.S. Patent No. 4,539,684) together or in combination with Salava (U.S. 3,586) or Humphery et al. (U.S. Patent No. 5,959,967) for the reasons set forth on pages 2-6 of the Final Office Action. Appellants contend that Claims 24-46 clearly define over the cited references, and in view of the following remarks, reversal of the Examiner's decision including the rejection under 35 U.S.C. §103 is requested.

Mannerling et al. is directed to a discrete multitone (DMT) digital subscriber loop (xDSL) telecommunication system having a transmitter portion including a bit encoder, inverse

In re Patent Application of:
NORDSTROM ET AL.
Serial No: 09/555,816
Filing Date: October 10, 2000 /

fast Fourier transform (FFT), parallel-to-serial converter, digital-to-analog converter and line driver for transmitting data signals to a twisted pair telephone line and a receiver portion including an analog-to-digital converter, serial-to-parallel converter, forward FFT and bit decoder for receiving data signals from the twisted pair telephone line. However, as correctly recognized by the Examiner, there is no teaching of a scrambler, descrambler or the use of any synchronization frames, normally used for measuring channel characteristics, as a source of pseudo-random data which can be combined with incoming user data. Moreover, there is no discussion of any need, desire or problem whatsoever associated with an uncorrelated data stream for transmission.

The Examiner has relied upon the reference to Kloker to allegedly make up for the deficiencies of Mannerling. Kloker is directed to a communication system including an encoder and decoder for the transmission of digital information over a transmission medium. The system has frame synchronization and error correction. The encoder processes a data stream and generates a transmission bit stream of N bits using convolutional encoding, auto-synchronization sequence combining, and bit interleaving. Kloker is not directed to a multi-carrier transmission system. The Examiner has cited Kloker for the use of an auto-synchronization sequence combined with input data to reduce the transmission bit stream and obtain frame synchronization at the receiver using a multiphase sequential decoder, as shown, for example, in FIG. 3 of Kloker (reproduced below).

In re Patent Application of:
 NORDSTROM ET AL.
 Serial No: 09/555,816
 Filing Date: October 10, 2000

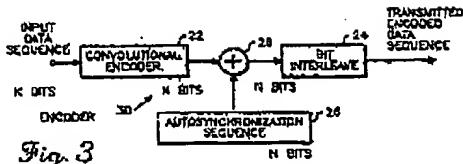


Fig. 3

However, there is nothing in Kloker that teaches or suggests that such a bit stream reducing process would be desirable in a data scrambler or descrambler of a multi-carrier transmission system using, for example, DMT, or OFDM.

As such, Appellants maintain that the Examiner is impermissibly using the teachings of Appellants' own patent application as a roadmap to modify the prior art. For example, as noted above, the method and apparatus of Mannerling does not discuss or teach the use of a scrambler, descrambler or any synchronization frames as a source of pseudo-random data. Also, Kloker is concerned with reducing the length of the transmission bit stream and not with producing an uncorrelated data stream for transmission in a multi-carrier transmission system.

Additionally, with respect to Claims 27, 31, 40 and 44, Appellants point to page 4 of the Final Office Action as further evidence of the Examiner's hindsight reasoning in making the obviousness rejection. Indeed, such dependent claims set forth the feature of the two most significant bits of the frame synchronization data being combined with user data in the combiner unit of the data scrambler or descrambler. As discussed in the specification (e.g. page 2, lines 4-7), it was the Appellants that discovered that this results in a statistically and computationally efficient scrambling of the user data. The Examiner provides no

In re Patent Application of:
NORDSTROM ET AL.
Serial No: 09/555,816
Filing Date: October 10, 2000

rationale or teaching for rejecting such claims, but instead provides the impermissible speculation that "any combination of bits...would produce similar results."

Additionally, the Salava patent was relied upon by the Examiner for the use of a pseudo-random code signal with shift registers. However, nothing in Salava at all, let alone the portions cited by the Examiner, suggests a desire for using a pseudo-random code signal in a data scrambler or descrambler of a multi-carrier transmission, or that such a code could be combined with incoming user data in a data scrambler or descrambler of a multi-carrier transmission. Accordingly, nothing in Salava makes up for the deficiencies of the hypothetical Mannerling and Kloker combination as discussed above.

As the Examiner and Board are aware, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference. Second, there must be a reasonable expectation of success. Finally, the prior art reference must teach or suggest all the claim features. The initial burden is on the Examiner to provide some suggestion of the desirability of doing what the Appellants have done. To support the conclusion that the claimed invention is directed to obvious subject matter, either the reference must expressly or impliedly suggest the claimed invention or the Examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the reference. Both the suggestion to make

In re Patent Application of:
NORDSTROM ET AL.
Serial No: 09/555,816
Filing Date: October 10, 2000

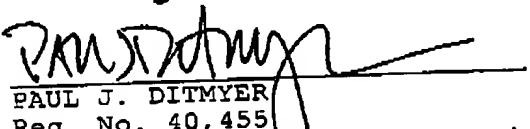
the claimed combination and the reasonable expectation of success must be founded in the prior art and not in Appellants' disclosure.

There is simply no teaching or suggestion in the cited references to provide the combination of features as claimed. Accordingly, for at least the reasons given above, Appellants maintain that the cited references do not disclose or fairly suggest the invention as set forth in Claims 24-46. Furthermore, no proper modification of the teachings of these references could result in the invention as claimed. Thus, the rejections under 35 U.S.C. §103(a) should be withdrawn.

CONCLUSIONS

In view of the substantive arguments presented above, it is submitted that all of the claims, namely Claims 24-46, are patentable over the prior art. Accordingly, Appellants respectfully request that all of the rejections be reversed.

Respectfully submitted,


PAUL J. DITMYER
Reg. No. 40,455
Allen, Dyer, Doppelt, Milbrath
& Gilchrist, P.A.
255 S. Orange Avenue, Suite 1401
Post Office Box 3791
Orlando, Florida 32802
407-841-2330
Attorney for Appellants

In re Patent Application of:
NORDSTROM ET AL.
Serial No: 09/555,816
Filing Date: October 10, 2000

APPENDIX INCLUDING THE CLAIMS ON APPEAL
FOR U.S. PATENT APPLICATION SERIAL NO. 09/555,816

24. (previously presented) A data scrambler, for use in a multi-carrier transmission system in which synchronization frame data is periodically transmitted from a transmitter to a receiver to measure transmission channel characteristics, the data scrambler comprising a combiner unit to combine user data with frame synchronization data.

25. (previously presented) A data scrambler as claimed in Claim 24, wherein the combiner unit comprises an exclusive OR (XOR) combiner unit.

26. (previously presented) A data scrambler as claimed in Claim 24, wherein the frame synchronization data is pseudo-random.

27. (previously presented) A data scrambler as claimed in Claim 24, wherein the combiner unit combines the user data with the two most significant bits of a synchronization frame of the frame synchronization data.

28. (previously presented) A data descrambler, for use in a multi-carrier transmission system in which synchronization frame data is periodically transmitted from a transmitter to a receiver to measure transmission channel characteristics, and transmitted data is scrambled using a data scrambler comprising a first combiner unit to combine

In re Patent Application of:
NORDSTROM ET AL.
Serial No: 09/555,816
Filing Date: October 10, 2000

user data with frame synchronization data, the data descrambler comprising a second combiner unit to combine received data with frame synchronization data.

29. (previously presented) A data descrambler as claimed in Claim 28, wherein the second combiner unit comprises an exclusive OR (XOR) combiner unit.

30. (previously presented) A data descrambler as claimed in Claim 28, wherein the frame synchronization data is pseudo-random.

31. (previously presented) A data descrambler as claimed in Claim 28, wherein the second combiner unit combines the received data with the two most significant bits of a synchronization frame of the frame synchronization data.

32. (previously presented) A multi-carrier transmission system comprising:

a receiver;
a transmitter to periodically transmit synchronization frame data to the receiver to measure transmission channel characteristics; and
a data scrambler connected to the transmitter and comprising a combiner unit to combine user data with frame synchronization data.

33. (previously presented) A multi-carrier transmission system as claimed in Claim 32, further comprising a data descrambler connected to the receiver and comprising a

In re Patent Application of:
NORDSTROM ET AL.
Serial No: 09/555,816
Filing Date: October 10, 2000

second combiner unit to combine received data with frame synchronization data.

34. (previously presented) A multi-carrier transmission system as claimed in Claim 32, wherein said multi-carrier transmission system is a discrete multi-tone (DMT) system.

35. (previously presented) A multi-carrier transmission system as claimed in Claim 32, wherein said multi-carrier transmission system is an orthogonal frequency division multiplex (OFDM) system.

36. (previously presented) A multi-carrier transmission system as claimed in Claim 32 further comprising means for transmitting frame synchronization data from the data scrambler to the data descrambler.

37. (previously presented) A method of scrambling user data prior to transmission in a multi-carrier transmission system in which synchronization frame data is periodically transmitted from a transmitter to a receiver to measure transmission channel characteristics, the method comprising:

combining user data with frame synchronization data to define scrambled data; and
transmitting the scrambled data to the receiver.

38. (previously presented) A method as claimed in Claim 37, wherein combining user data with frame

In re Patent Application of:
NORDSTROM ET AL.
Serial No: 09/555,816
Filing Date: October 10, 2000

synchronization data comprises performing an exclusive OR (XOR) operation.

39. (previously presented) A method as claimed in Claim 37, wherein the frame synchronization data is pseudo-random.

40. (previously presented) A method as claimed in Claim 37, wherein combining user data with frame synchronization data comprises combining the two most significant bits of a synchronization frame.

41. (previously presented) A method of descrambling scrambled data in a multi-carrier transmission system in which synchronization frame data is periodically transmitted from a transmitter to a receiver to measure transmission channel characteristics, the scrambled data comprising user data having been combined with frame synchronization data, the method comprising:

receiving the scrambled data; and
combining the scrambled data with frame synchronization data.

42. (previously presented) A method as claimed in Claim 41, wherein combining scrambled data with frame synchronization data comprises performing an exclusive OR (XOR) operation.

43. (previously presented) A method as claimed in Claim 41, wherein the frame synchronization data is pseudo-

In re Patent Application of:
NORDSTROM ET AL.
Serial No. 09/555,816
Filing Date: October 10, 2000

random.

44. (previously presented) A method as claimed in Claim 41, wherein combining scrambled data with frame synchronization data comprises combining the two most significant bits of a synchronization frame.

45. (previously presented) A method as claimed in Claim 41, wherein the multi-carrier transmission system is a discrete multi-tone (DMT) system.

46. (previously presented) A method as claimed in Claim 41, wherein said multi-carrier transmission system is an orthogonal frequency division multiplex (OFDM) system.

In re Patent Application of:
NORDSTROM ET AL.
Serial No: 09/555,816
Filing Date: October 10, 2000

CERTIFICATE OF FACSIMILE TRANSMISSION

I HEREBY CERTIFY that the foregoing correspondence has been forwarded via facsimile number 703-872-9306 to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 15 day of June, 2004.

PML/Ditney